

an incorporation by reference to another document. No document on file with the Commission for more than five years may be incorporated by reference except:

(1) Documents contained in registration statements, which may be incorporated by reference as long as the registrant has a reporting requirement with the Commission; or

(2) Documents that the registrant specifically identifies by physical location by SEC file number reference, provided such materials have not been disposed of by the Commission pursuant to its Records Control Schedule (17 CFR 200.80f).

(g) *Quantitative and qualitative disclosures about market risk.* The safe harbor provision included in paragraph (d) of Item 305 of Regulation S-K (§ 229.305(d) of this chapter) shall apply to information required by Item 305 of Regulation S-K (§ 229.305 of this chapter) that is voluntarily provided by or on behalf of a small business issuer as defined in Rule 12b-2 of the Exchange Act.

NOTE TO PARAGRAPH (G): Such small business issuers are not required to provide the information required by Item 305 of Regulation S-K.

[57 FR 36449, Aug. 13, 1992, as amended at 60 FR 32824, June 23, 1995; 62 FR 6064, Feb. 10, 1997; 62 FR 26388, May 14, 1997]

§ 228.101 (Item 101) Description of Business.

(a) *Business Development.* Describe the development of the small business issuer during the last three years. If the small business issuer has not been in business for three years, give the same information for predecessor(s) of the small business issuer if there are any. This business development description should include:

- (1) Form and year of organization;
- (2) Any bankruptcy, receivership or similar proceeding; and
- (3) Any material reclassification, merger, consolidation, or purchase or sale of a significant amount of assets not in the ordinary course of business.

(b) *Business of Issuer.* Briefly describe the business and include, to the extent material to an understanding of the issuer:

- (1) Principal products or services and their markets;

(2) Distribution methods of the products or services;

(3) Status of any publicly announced new product or service;

(4) Competitive business conditions and the small business issuer's competitive position in the industry and methods of competition;

(5) Sources and availability of raw materials and the names of principal suppliers;

(6) Dependence on one or a few major customers;

(7) Patents, trademarks, licenses, franchises, concessions, royalty agreements or labor contracts, including duration;

(8) Need for any government approval of principal products or services. If government approval is necessary and the small business issuer has not yet received that approval, discuss the status of the approval within the government approval process;

(9) Effect of existing or probable governmental regulations on the business;

(10) Estimate of the amount spent during each of the last two fiscal years on research and development activities, and if applicable the extent to which the cost of such activities are borne directly by customers;

(11) Costs and effects of compliance with environmental laws (federal, state and local); and

(12) Number of total employees and number of full time employees.

(c) *Reports to security holders.* Disclose the following in any registration statement you file under the Securities Act of 1933:

(1) If you are not required to deliver an annual report to security holders, whether you will voluntarily send an annual report and whether the report will include audited financial statements;

(2) Whether you file reports with the Securities and Exchange Commission. If you are a reporting company, identify the reports and other information you file with the SEC; and

(3) That the public may read and copy any materials you file with the SEC at the SEC's Public Reference Room at 450 Fifth Street, N.W., Washington, D.C. 20549. State that the public may obtain information on the operation of the Public Reference Room by

calling the SEC at 1-800-SEC-0330. If you are an electronic filer, state that the SEC maintains an Internet site that contains reports, proxy and information statements, and other information regarding issuers that file electronically with the SEC and state the address of that site (<http://www.sec.gov>). You are encouraged to give your Internet address, if available.

(d) *Canadian Issuers*. Provide the information required by Items 101(f)(2) and 101(g) of Regulation S-K (§ 229.101(f)(2) and (g)).

[57 FR 36449, Aug. 13, 1992, as amended at 63 FR 6379, Feb. 6, 1998]

§ 228.102 (Item 102) Description of Property.

(a) Give the location of the principal plants and other property of the small business issuer and describe the condition of the property. If the small business issuer does not have complete ownership of the property, for example, others also own the property or there is a mortgage or lien on the property, describe the limitations on the ownership.

Instructions to Item 102(a): 1. Small business issuers engaged in significant mining operations also should provide the information in Guide 7 (§ 229.801(g) and § 229.802(g) of this chapter).

2. Small business issuers engaged in oil and gas producing activities also should provide the information in Guide 2 (§ 229.801(b) and § 229.802(b) of this chapter).

3. Small business issuers engaged in real estate activities should, in addition to Guide 5 (§ 229.801(e) of this chapter) provide responses to the following Items:

(b) *Investment policies*. Describe the policy of the small business issuer with respect to each of the following types of investments. State whether there are any limitations on the percentage of assets which may be invested in any one investment, or type of investment, and indicate whether such policy may be changed without a vote of security holders. State whether it is the small business issuer's policy to acquire assets primarily for possible capital gain or primarily for income.

(1) *Investments in real estate or interests in real estate*. Indicate the types of real estate in which the small business issuer may invest, for example, office

or apartment buildings, shopping centers, industrial or commercial properties, special purpose buildings and undeveloped acreage, and the geographic area(s) of these properties. Briefly describe the method, or proposed method, of operating and financing these properties. Indicate any limitations on the number or amount of mortgages which may be placed on any one piece of property.

(2) *Investments in real estate mortgages*. Indicate the types of mortgages, for example, first or second mortgages, and the types of properties subject to mortgages in which the small business issuer intends to invest, for example, single family dwellings, apartment buildings, office buildings, unimproved land, and the nature of any guarantees or insurance. Describe each type of mortgage activity in which the small business issuer intends to engage such as originating, servicing and warehousing, and the portfolio turnover policy.

(3) *Securities of or interests in persons primarily engaged in real estate activities*. Indicate the types of securities in which the small business issuer may invest, for example, common stock, interest in real estate investment trusts, partnership interests. Indicate the primary activities of persons in which the small business issuer will invest, such as mortgage sales, investments in developed or undeveloped properties and state the investment policies of such persons.

(c) *Description of real estate and operating data*. This information shall be furnished separately for each property the book value of which amounts to ten percent or more of the total assets of the small business issuer and its consolidated subsidiaries for the last fiscal year. With respect to other properties, the information shall be given by such classes or groups and in such detail as will reasonably convey the information required.

(1) Describe the general character and location of all materially important properties held or intended to be acquired by or leased to the small business issuer and describe the present or proposed use of such properties and their suitability and adequacy for such